



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**CIVIL MISCELLANEOUS E198 OF 2025**

**CLIMAX COACHES LIMITED -----  
APPLICANT**

**-VERSUS-**

**THIMO CHERUIYOT KIRUI -----  
RESPONDENT**

**RULING**

1. By Notice of Motion dated 13/6/2025, the Applicant craves orders as hereunder;-

- 1. Spent.**
- 2. Spent.**
- 3. This Honourable Court be pleased to grant the Applicant leave to appeal out of time in respect of the judgement and/or decree delivered in Nakuru CMCC No. E592 of**

**2024 by Hon. Priscah Wamucii Nyottah (Senior Resident Magistrate).**

- 4. This Honourable Court be pleased to grant an order of stay of execution of the Judgement and/or decree delivered on 23<sup>rd</sup> April 2025 and all consequential arising therefrom pending hearing and determination of the Intended Appeal.**
- 5. This Honourable Court be pleased to issue an order that the decretal sum in the amount of Kshs. 320,550/= be deposited in the joint interest earning account as security in the name of the advocates pending hearing and determination of the Intended Appeal herein. (*sic*)**
- 6. This Honourable Court be pleased to issue any other order as it may deem just, appropriate and expedient in the interest of justice.**
- 7. Costs of this Application be provided for.**

2. The Applicant's Advocate (Audrey Mwira) swore an affidavit in support of the Application. In a nutshell, it is contended that the intended Appeal would be rendered nugatory if stay of execution is not be granted.

3. The Defendant/Respondent failed to file a reply despite evidence of service of the Application.

4. The following orders issue on the Application;-

a) Leave to Appeal is granted.

b) There will be stay of execution on condition that the decretal sum shall be deposited into court within 30 (thirty) days from the date hereof failure to which the Respondent/Judgement Creditor shall be at liberty to levy execution.

c) The costs of the Application shall abide the intended Appeal.

5. Ruling accordingly.

**J. M. NANG'EA, JUDGE.**

**Ruling dated, signed and delivered at Nakuru this 10<sup>th</sup> day of November, 2025.**

**In the presence of:**

**Ms Kagira Advocate for Ms Mwira Advocate for the Applicant**

**Respondent, Absent**

**Court Assistant (Jeniffer)**

**J. M. NANG'EA, JUDGE.**

ORIGINAL